

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:

MARGARET R. BROWN

BK. No. 18-12017-mdc

A/K/A MARGARET R CAPONE

Debtor

:

:

Chapter No. 13

:

DEUTSCHE BANK NATIONAL TRUST

:

COMPANY, AS TRUSTEE FOR AMERIQUEST

:

MORTGAGE SECURITIES INC., QUEST

:

TRUST 2005-X2, ASSET BACKED

:

11 U.S.C. §362 and §1301

CERTIFICATES, SERIES 2005-X2

:

Movant

:

v.

:

MARGARET R. BROWN

:

A/K/A MARGARET R CAPONE

:

SCOTT A. BROWN

Respondents

**MOTION OF DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR
AMERIQUEST MORTGAGE SECURITIES INC., QUEST TRUST 2005-X2, ASSET
BACKED CERTIFICATES, SERIES 2005-X2 FOR RELIEF FROM AUTOMATIC STAY
AND CO-DEBTOR STAY UNDER §362 AND §1301 PURSUANT TO BANKRUPTCY
PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and Co-Debtor Stay and leave to foreclose on its mortgage on real property owned by Debtors MARGARET R. BROWN A/K/A MARGARET R CAPONE AND NON-FILING CO-DEBTOR SCOTT A. BROWN.

1. Movant is **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR AMERIQUEST MORTGAGE SECURITIES INC., QUEST TRUST 2005-X2, ASSET BACKED CERTIFICATES, SERIES 2005-X2.**

2. Debtors, MARGARET R. BROWN A/K/A MARGARET R CAPONE AND NON-FILING CO-DEBTOR SCOTT A. BROWN, are the owners of the premises located at **323 MERCY ST, PHILADELPHIA, PA 19148**, hereinafter known as the mortgaged premises.

3. Movant is the holder of a mortgage on the mortgaged premises.

4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

5. Movant wishes to institute foreclosure proceedings on the mortgage because of

6. The foreclosure proceedings to be instituted were stayed by the filing of the instant Chapter 13 Petition.

7. As of September 20, 2018, Debtor has failed to tender post-petition mortgage payments for the months of May 2018 through September 2018. The monthly payment amount for the months of May 2018 through September 2018 is \$994.45, less suspense in the amount of \$572.23, for a total amount due of \$4,400.02. The next payment is due on or before October 1, 2018, in the amount of \$994.45. The following fees and costs have been incurred since bankruptcy filing: Bankruptcy Fee in the amount of \$250.00, Bankruptcy Fee in the amount of \$500.00, Bankruptcy Fee in the amount of \$500.00, and Bankruptcy Fee in the amount of \$150.00.

8. Movant additionally seeks relief from the co-debtor stay under 1301 (c) (if applicable) in the instant case, as the continuation of the co-debtor stay causes irreparable harm to the Movant. Movant may be barred from moving forward with its state court rights under the terms of the mortgage without relief from the co-debtor stay.

9. Movant, **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR AMERIQUEST MORTGAGE SECURITIES INC., QUEST TRUST 2005-X2, ASSET BACKED CERTIFICATES, SERIES 2005-X2**, requests the Court award reimbursement in the amount of \$1,031.00 for the legal fees and costs associated with this Motion.

10. Movant has cause to have the Automatic Stay and Co-Debtor Stay terminated as to permit Movant to complete foreclosure on its mortgage.

11. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

12. OCWEN LOAN SERVICING, LLC services the underlying mortgage loan and note for the property referenced in this Motion for Relief for **DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR AMERIQUEST MORTGAGE SECURITIES INC.**,

and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/ or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR AMERIQUEST MORTGAGE SECURITIES INC., QUEST TRUST 2005-X2, ASSET BACKED CERTIFICATES, SERIES 2005-X2 (the noteholder). DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR AMERIQUEST MORTGAGE SECURITIES INC., QUEST TRUST 2005-X2, ASSET BACKED CERTIFICATES, SERIES 2005-X2 (the noteholder) has the right to foreclose because Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

- a. modifying the Automatic Stay under Section 362 with respect to **323 MERCY ST, PHILADELPHIA, PA 19148** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and
- b. Granting relief from any co-debtor stay (if applicable); and
- c. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable

d. Granting any other relief that this Court deems equitable and just.

/s/ Mario J. Hanyon, Esquire
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